

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MARY V. CARPENTER,)	Civil Action No. 12-21
)	
Plaintiff,)	(Bankr. Adv. No. 11-02252-TPA)
)	
v.)	
)	
US BANK, NA, et al.,)	
)	
Defendants.)	

**RESPONSE OF US BANK, NA TO
PLAINTIFF'S MOTION TO WITHDRAW REFERENCE**

Defendant US Bank, NA, by its undersigned counsel, hereby responds to Plaintiff's Motion to Withdraw Reference.

US Bank believes that Plaintiff's Motion is not timely, and further that Plaintiff has failed to establish a basis to withdraw the reference.¹ Nevertheless, to the extent this Court is inclined to entertain the Motion, US Bank does not oppose the alternative request in paragraph 15(a) of Plaintiff's Motion as a means of resolving the jurisdictional issues following from Stern v. Marshall, ____ U.S. ___, 2011 U.S. LEXIS 4791, 131 S. Ct. 2594, 180 L. Ed. 2d 475 (U.S. June 23, 2011). In particular, US Bank does not oppose Plaintiff's request that this Court "direct[] the Bankruptcy Court to try all Counts of Carpenter's Amended Complaint, and: (1) enter Final Orders on Count I and II of the

¹ By way of example, Plaintiff has failed to establish a basis for diversity jurisdiction. Although Plaintiff nominally alleges damages in the amount of \$163,000, of which \$150,000 represents alleged punitive damages (see Amended Complaint ¶¶ 4, 18(h), Prayer for Relief), her actual damage claim is not more than \$46,306.60. (See Amended Complaint ¶ 18 (alleging property value and/or damages in the total amount of \$46,306.60), Exhibit 4 (alleging property value and/or damages in the total amount of \$44,156).) Because Plaintiff's damages do not exceed \$75,000, she has not stated a basis to invoke diversity jurisdiction. 28 U.S.C. § 1332(a).

Amended Complaint in Adversary Proceeding No. 11-2252 TPA, as the Bankruptcy Court deems appropriate; and (2) make proposed findings of fact and conclusions of law and submit them to the District Court, on all the remaining Counts of the Amended Complaint in Adversary Proceeding No. 11-2252 TPA.” Motion to Withdraw Reference at ¶ 15(a), p.5.

Respectfully submitted,

/s/ Scott M. Hare
Scott M. Hare, Esquire
Pa. I.D. No. 63818

1806 Frick Building
437 Grant Street
Pittsburgh, PA 15219

Tel: 412-338-8632

Mary F. Kennedy, Esquire
Pa. I.D. No. 77149

Law Office of Gregory Javardian
1310 Industrial Blvd.
First Floor – Suite 101
Southampton, PA 18966

Tel: 215-942-9690

Counsel for Defendant US Bank, NA

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